

48CV04639-ILG-ST.P.

FILED

IN CLERKS OFFICE
U.S. DISTRICT COURT E.D. N.Y.



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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

P.M.

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GEORGE SCHUCK, JR., as Chairman of the
JOINT INDUSTRY BOARD OF THE ELECTRICAL
INDUSTRY and its Participating Funds,

CV-98-4639
(ILG)

Plaintiff,

- against -

STIPULATION AND
ORDER OF SETTLEMENT

OLDE BOSTON ELECTRICAL CORPORATION,

Defendants.
-----X

IT IS HEREBY STIPULATED AND AGREED by and between the parties
in the above entitled action, in full settlement of all claims
by, between and among the parties that:

1. Defendant admits and acknowledges that it has been duly
served with the Summons and Complaint and further admit and
accept the jurisdiction of this Court over both the Defendant and
the subject matter of this action.

2. Defendant admits and acknowledges that it owes the
Plaintiff the sum of \$26,388.77 plus interest, for delinquent
contributions to employee benefit plans administered by the
Plaintiff due for the weeks ending April 22, 1998 through and
including September 30, 1998. Attached hereto as Exhibit "A" is
a summary schedule of the delinquent contributions for said time
period.

3. Defendant's obligation to make contributions to said
plans arises out of a Collective Bargaining Agreement, duly
executed, by and between Defendant and Local Union No. 3, IBEW,
AFL-CIO ("CBA"). Said CBA has been and remains in full force and

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& FALCONE, P.C.
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EASTERN DISTRICT OF NEW YORK

(4)

effect for all times material to this action. Defendant further admits and acknowledges that the Plaintiff, in his capacity as Chairman of the Joint Industry Board of the Electrical Industry (JIB) is a fiduciary with respect to said plans and as such is a proper party to bring this action.

4. Defendant acknowledges and admits that interest will continue to accrue on the balance of all outstanding delinquent contributions until paid in full at a rate of half ($\frac{1}{2}$) percent above the published prime rate as quoted by Citibank, N.A. on the first day of each quarter, interest to be compounded weekly.

5. Defendant shall pay the amount of delinquent contributions described in Paragraph 2 hereof plus interest, costs, and attorney's fees in the following manner:

(a) Six (6) monthly payments of \$4,398.13 commencing October 28, 1998 and on the 28th of each month thereafter through and including March 28, 1999 until the full amount of delinquent contributions set forth in Paragraph 2 are paid.

(b) One month thereafter, after a full payment of the amount due from subparagraph (a) Defendant shall pay and Plaintiff shall accept an amount constituting all interest accrued on the amounts described in subparagraph (a), computed at the rate specified in paragraph 4 hereof plus the amount representing costs and attorneys fees incurred by plaintiff in connection with this action. Plaintiff shall compute the amount of accrued interest, costs and attorneys and transmit such calculation to defendant in order that defendant shall know the total amount owed pursuant to this subparagraph. Payment for the

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amount due under this subparagraph shall be made within one month of the last payment due under subparagraph (a) or within one week of the receipt of the calculation from plaintiff, whichever occurs later. Provided that Defendant does not default in making the payments due hereunder, the amount of attorneys fees and costs shall be \$1,610.00 in attorney's fees (legal fees of \$760.00 incurred in 1997 in connection with a previous delinquency and \$850.00 in connection with the pending action) and \$227.00 in costs (filing fee of \$150.00 and process service fees of \$77.00). Said attorney's fees and costs represent the amount due provided Olde Boston Electrical fully complies with this agreement. In the event of a breach, said amount is subject to change.

6. Promptly upon receipt of the payment described in subparagraph (b) of paragraph 5 hereof, Plaintiff will file a Notice of Dismissal with regard to the instant action.

7. Defendant shall remain current with its obligation other than those specified in paragraph 5 above, as required by the Collective Bargaining Agreement and the benefit plan documents. Defendant's failure to remain current shall constitute a default hereunder.

8. Defendant shall make each payment and send all payroll reports to the Joint Industry Board of the Electrical Industry, 158-11 Harry Van Arsdale, Jr. Avenue, Flushing, New York 11365-3095, attention: James J. Treanor, Assistant Controller.

9. Defendant agrees that its failure to tender any payment within seven (7) days of the dates specified in Paragraph "5"

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above or its failure to remain current as described in Paragraph "6" above shall constitute a default under this Stipulation and Order of Settlement. In the event of a default, and in the event Defendant does not cure such default within three (3) days after Defendant receives written notice, by regular mail, of such default, the Clerk of this Court is hereby authorized to enter judgment against **OLDE BOSTON ELECTRICAL CORPORATION**, upon the Plaintiff's application to recover the full amount of the debt herein, plus interest, less any payments made hereunder, as supported by an affidavit of the attorney for Plaintiff as to such default, and an affidavit setting forth the amount due. Plaintiff's failure to avail himself of this remedy in the case of any one or more defaults hereunder shall not constitute a waiver of Plaintiff's right to avail himself of this remedy in the event of a future default.

10. Defendant represents that service of process in any proceeding instituted pursuant to this Stipulation and Order of Settlement may be made by first class mail upon Defendant at Olde Boston Electrical Corporation, 365 South End Ave., New York, NY 10280.

11. Defendant shall not assert any affirmative defense to payments due hereunder other than actual tender of payment.

12. This Stipulation and Order of Settlement shall be governed by and construed in accordance with the laws of the State of New York and applicable Federal laws, cannot be changed or terminated orally and shall inure to the benefit of and be binding upon the parties hereto and their respective partners,

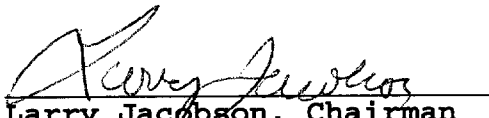
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heirs, distributees, legal representative, successors and assigns.

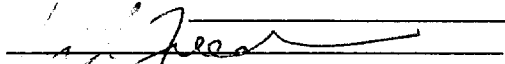
13. Harvey L. Freedman acknowledges that he is an owner of Olde Boston Electrical and agrees to be personally liable for all the amounts set forth herein. As such, Harvey L. Freedman shall contemporaneously with the execution of this stipulation execute the "Guaranty" which is attached hereto and made a part of this Stipulation.


Dated: New York, New York
October, 27 1998

Larry Jacobson, Chairman
Joint Industry Board of the
Electrical Industry and its
Participating Funds,


Larry Jacobson, Chairman

OLDE BOSTON ELECTRICAL
CORPORATION


Harvey L. Freedman, President


Harvey L. Freedman,
Individually

SO ORDERED this 3rd day of February, 1998


U.S.D.J.

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GUARANTY

For value received and in consideration for and as an inducement to the Joint Industry Board of the Electrical Industry (hereinafter "JIB") entering into a **STIPULATION OF SETTLEMENT** (hereinafter "Stipulation") with Olde Boston Electrical Corp. (hereinafter "Olde Boston"), the undersigned, on behalf of themselves, their legal representatives, heirs, successors and assigns guarantee to JIB, the full performance and observance of all the provisions of the Stipulation entered into between Olde Boston and its President Harvey Freedman and the JIB this 27 day of October, 1998.

Harvey Freedman guarantees Olde Boston's performance and compliance with the terms of conditions of the above referenced Stipulation. Harvey Freedman understands that the JIB may, without taking any action against Olde Boston, and without sending them any notice of non-payment, non-performance, or non-observance, of the terms of the Stipulation by Olde Boston full recovery of all money due to the JIB from Harvey Freedman personally.

Harvey Freedman expressly waives and expressly agrees that the validity of this Agreement and the obligation of the guarantor hereunder shall not be terminated, effected or impaired by reason of the assertion by JIB against Olde Boston of any of the rights

or remedies reserved to JIB pursuant to the provisions of the within Stipulation.

Harvey Freedman further agrees that this guarantee shall remain and continue in full force and effect as to any renewal, modification or extension of the Stipulation. As a further inducement to JIB to make this Agreement and in consideration thereof, JIB and the undersigned agree that in any action or proceeding brought by either JIB or the undersigned against the other on any matters whatsoever arising out of, under, or by virtue of the terms of the Stipulation or of this guarantee that JIB and the undersigned shall and do hereby waive trial by jury.

GUARANTOR

Dated: October 27, 1998

Harvey Freedman
Harvey Freedman

Residing at:

365 South End Ave #3f
N.Y. NY 10280

Subscribed and sworn to before me
this 27 day of October, 1998

Dennis Pantzer
Notary Public

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& FALCONE, P.C.
386 PARK AVENUE SO.
NEW YORK, N.Y. 10016

DENNIS PANTZER
Notary Public, State of New York
No. 31-4998594
Qualified in New York County
Commission Expires June 28, 2000

2000

85 OLDE BOSTON EL	4/22/98	\$1,088.77	10/14/98	\$43.97
	4/29/98	\$1,088.77	10/14/98	\$42.14
	5/ 6/98	\$1,088.77	10/14/98	\$40.31
	5/13/98	\$1,088.77	10/14/98	\$38.47
	5/20/98	\$1,088.77	10/14/98	\$36.64
	5/27/98	\$871.01	10/14/98	\$27.85
	6/ 3/98	\$1,088.77	10/14/98	\$32.98
	6/10/98	\$1,088.77	10/14/98	\$31.15
	6/17/98	\$1,116.09	10/14/98	\$30.05
	6/24/98	\$1,116.09	10/14/98	\$28.17
	7/ 1/98	\$1,116.09	10/14/98	\$26.29
	7/ 8/98	\$992.65	10/14/98	\$21.71
	7/15/98	\$1,116.09	10/14/98	\$22.54
	7/22/98	\$1,143.46	10/14/98	\$21.17
	7/29/98	\$1,143.46	10/14/98	\$19.24
	8/ 5/98	\$1,143.46	10/14/98	\$17.32
	8/12/98	\$1,143.46	10/14/98	\$15.39
	8/19/98	\$1,143.46	10/14/98	\$13.47
	8/26/98	\$1,143.46	10/14/98	\$11.54
	9/ 2/98	\$1,143.46	10/14/98	\$9.62
	9/ 9/98	\$914.76	10/14/98	\$6.16
	9/16/98	\$1,143.46	10/14/98	\$5.77
	9/23/98	\$1,143.46	10/14/98	\$3.85
	9/30/98	\$1,233.46	10/14/98	\$2.08
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		\$26,388.77		\$547.86

Exhibit "A"